

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2000**

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### Introduced by Assembly Member Huber

February 23, 2012

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An act to amend Section ~~11460 of~~, 85200 of, and to add Sections ~~11108, 11109, 11110, 11111, 11456, 11457, 11458, and 11915.2~~ 139.5 and 85090 to, and to add Article 9.4 (commencing with Section ~~11259~~) to Chapter 2 of Part 3 of Division 6 of, the Water Code, relating to water, and making an appropriation therefor.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2000, as amended, Huber. ~~State water facilities: Sacramento-San Joaquin Delta: Delta conveyance facility. Delta.~~

*Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta (Delta). Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, established the Delta Stewardship Council as an independent agency of the state and required the council to consist of 7 members appointed in a specified manner.*

*This bill would reduce the Governor's appointments to the council to 2 members, and instead provide that the Vice-Chairperson of the*

*commission and a member of the commission chosen by a majority vote of the commission will serve on the council, as prescribed.*

*Existing law imposes requirements on the Department of Water Resources in connection with the preparation of a Bay Delta Conservation Plan (BDCP). The Sacramento-San Joaquin Delta Reform Act of 2009 requires the council to consider the BDCP for inclusion in a specified Delta Plan, and requires the incorporation of the BDCP into the Delta Plan if the BDCP meets certain requirements, including a requirement that the BDCP include a comprehensive review and analysis of a range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and capacity and design options of specified canals and pipelines.*

*This bill would require the department to withdraw from a specified Memorandum of Agreement. This bill would permit the department to enter into a new agreement to further efforts to develop a BDCP only if that memorandum of agreement includes prescribed requirements.*

*Under existing law, various general obligation bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. Existing law, the Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects, of which \$3,000,000,000 is available, upon appropriation by the Legislature, to the department, for specified purposes including, but not limited to, the evaluation, repair, rehabilitation, reconstruction, or replacement of levees. Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$5,388,000,000, of which \$275,000,000 is made available to the department, upon appropriation by the Legislature, for flood control projects in the Delta designed to increase the department's ability to respond to levee breaches and to reduce the potential for levee failures.*

*This bill, with regard to those bond funds, would appropriate available funds to the department for levee improvements, as prescribed.*

~~(1) The United States Bureau of Reclamation operates the federal Central Valley Project and the Department of Water Resources operates~~

~~the State Water Resources Development System, known as the State Water Project, to supply water to persons and entities in the state.~~

~~Existing law provides for the design, construction, operation, and maintenance of water development facilities by the state, including the State Water Project. State Water Project facilities include, among others, the facilities that are specified or authorized as part of the state Central Valley Project.~~

~~This bill would prohibit the construction of a new Delta conveyance facility, as defined, unless specified conditions are met, including (A) the adoption of an agreement by the Department of Water Resources and the Department of Fish and Game that specifies the stages of construction of the new Delta conveyance facility and (B) the establishment of plans and agreements for the construction of specified water facilities and implementation of specified water programs meeting prescribed conditions as part of the state Central Valley Project. The bill would prohibit the transportation of water for the federal Central Valley Project through state project facilities, with specified exceptions, unless certain conditions are met.~~

~~The bill would require the Department of Water Resources to enter into contracts with specified Delta agencies for purposes of recognizing the right of users to make use of the waters of the Delta and establishing criteria for minimum water quality in the Delta. The bill would require differences between the state and the Delta agencies to be resolved by arbitration if contracts have not been executed by January 1, 2013.~~

~~(2) Existing law prohibits the Department of Water Resources, in the construction and operation of the State Water Project facilities, from depriving a watershed or area in which water originates, of the prior right to the water required to supply the beneficial needs of that area, as specified.~~

~~This bill would require the project to be operated in compliance with specified water quality standards, and would require the department, the Attorney General, and other state agencies to take actions to ensure that the federal Central Valley Project is operated in compliance with those standards.~~

~~The bill would require the department to make an allocation of specified costs of the project to compensate for historic upstream depletion and diversions, and would prohibit specified public agencies from being responsible for those allocated costs. The bill would require the costs of benefits in the Delta resulting from project operations, in~~

excess of detriments caused by the project, to be repaid by beneficiaries, to the extent those costs are allocable.

~~(3) Under existing law, the Department of Fish and Game and the Department of Water Resources are responsible for specified reports pertaining to water development projects and the Sacramento-San Joaquin Delta.~~

~~This bill would authorize the Department of Fish and Game to administer a study to determine the interrelationship between Delta outflow and fish and wildlife resources in the San Francisco Bay System and waste discharges into the San Francisco Bay system.~~

~~The bill would require the Department of Water Resources to study the possible interconnection between the State Water Resources Development System and water supply systems serving the Counties of Alameda, Contra Costa, San Joaquin, and San Mateo, and the City and County of San Francisco. The bill would also authorize the department to participate in an investigation of the need to enlarge Shasta Dam and Reservoir or other existing federal reservoirs.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 139.5 is added to the Water Code, to read:
- 2     139.5. (a) The department shall withdraw from the
- 3     Memorandum of Agreement Regarding Collaboration on the
- 4     Planning, Preliminary Design and Environmental Compliance for
- 5     the Delta Habitat Conservation and Conveyance Program in
- 6     Connection with the Development of the Bay Delta Conservation
- 7     Plan, in accordance with the provisions of that memorandum of
- 8     agreement.
- 9     (b) The department may enter into a new memorandum of
- 10    agreement to further efforts to develop a Bay Delta Conservation
- 11    Plan (BDCP) only if that memorandum of agreement does all of
- 12    the following:
- 13    (1) Allows the counties in the Delta to participate in the making
- 14    of BDCP determinations, including, but not limited to, additional
- 15    alternatives for conveyance and diversion, levee restoration,
- 16    protection for agriculture and recreation, and habitat conservation.

1 (2) *Evaluates non-diversion alternatives, such as water*  
2 *conservation, desalination, or storage, in the environmental impact*  
3 *report.*

4 (3) *Establishes technical working groups to address issues in*  
5 *each of the counties in the Delta.*

6 (4) *Provides funding to counties in the Delta to study the impacts*  
7 *of BDCP proposals and potential alternatives.*

8 (5) *Collaborates with habitat conservation plans and natural*  
9 *community conservation plans to ensure integration of state and*  
10 *local efforts.*

11 (6) *Independently reviews the science behind BDCP proposals*  
12 *in coordination with the counties of the Delta.*

13 SEC. 2. Section 85090 is added to the Water Code, to read:

14 85090. (a) Pursuant to Section 5096.821 of the Public  
15 Resources Code, available funds in the Disaster Preparedness and  
16 Flood Prevention Bond Fund of 2006 are appropriated to the  
17 department for levee improvements.

18 (b) Pursuant to Section 75033 of the Public Resources Code,  
19 funds made available pursuant to Division 43 (commencing with  
20 Section 75001) of the Public Resources Code are appropriated to  
21 the department for levee improvements.

22 SEC. 3. Section 85200 of the Water Code is amended to read:

23 85200. (a) The Delta Stewardship Council is hereby established  
24 as an independent agency of the state.

25 (b) (1) The council shall consist of seven voting members, of  
26 which ~~four~~ two members shall be appointed by the Governor and  
27 confirmed by the Senate, one member shall be appointed by the  
28 Senate Committee on Rules, one member shall be appointed by  
29 the Speaker of the Assembly, ~~and~~ one member shall be the  
30 Chairperson of the Delta Protection Commission, *one member*  
31 *shall be the Vice-Chairperson of the Delta Protection Commission,*  
32 *and one member shall be a member of the Delta Protection*  
33 *Commission chosen by a majority vote of that commission.* Initial  
34 appointments to the council shall be made by July 1, 2010.

35 (2) No member of the council shall serve two consecutive terms,  
36 but a member may be reappointed after a period of two years  
37 following the end of his or her term.

38 (c) (1) (A) The initial terms of two of the four members  
39 appointed by the Governor shall ~~be four years~~ *expire January 1,*  
40 *2013.*

1 (B) The initial terms of two of the four members appointed by  
2 the Governor shall be six years.

3 (C) The initial terms of the members appointed by the Senate  
4 Committee on Rules and the Speaker of the Assembly shall be  
5 four years.

6 (D) Upon the expiration of each term described in ~~subparagraphs~~  
7 ~~(A), (B),~~ *subparagraph (B)* or (C), the term of each succeeding  
8 member shall be four years.

9 (2) The Chairperson, *Vice-Chairperson*, and *chosen member*  
10 of the Delta Protection Commission shall serve as a member of  
11 the council for the period during which he or she holds the position  
12 as commission chairperson, *commission vice-chairperson*, or  
13 *commission member*.

14 (d) Any vacancy shall be filled by the appointing authority  
15 within 60 days. If the term of a council member expires, and no  
16 successor is appointed within the allotted timeframe, the existing  
17 member may serve up to 180 days beyond the expiration of his or  
18 her term.

19 (e) The council members shall select a chairperson from among  
20 their members, who shall serve for not more than four years in that  
21 capacity.

22 (f) The council shall meet once a month in a public forum. At  
23 least two meetings each year shall take place at a location within  
24 the Delta.

25 ~~SECTION 1. Section 11108 is added to the Water Code, to~~  
26 ~~read:~~

27 ~~11108. "Delta" means the Sacramento-San Joaquin Delta, as~~  
28 ~~defined in Section 12220.~~

29 ~~SEC. 2. Section 11109 is added to the Water Code, to read:~~

30 ~~11109. "Delta conveyance facility" means a facility that~~  
31 ~~conveys water directly from the Sacramento River to the State~~  
32 ~~Water Resources Development System or the federal Central~~  
33 ~~Valley Project pumping facilities in the south Delta.~~

34 ~~SEC. 3. Section 11110 is added to the Water Code, to read:~~

35 ~~11110. "Historical levels" means the average annual abundance,~~  
36 ~~from 1922 through 1967, of the adult populations of fish and~~  
37 ~~wildlife estimated to have lived in or been dependent on any area,~~  
38 ~~as determined by the Department of Fish and Game.~~

39 ~~SEC. 4. Section 11111 is added to the Water Code, to read:~~

1     ~~11111. “Suisun Marsh” means the areas described in Section~~  
2 ~~29101 of the Public Resources Code, and subject to protection~~  
3 ~~under Division 19 (commencing with Section 29000) of the Public~~  
4 ~~Resources Code.~~

5     ~~SEC. 5. Article 9.4 (commencing with Section 11259) is added~~  
6 ~~to Chapter 2 of Part 3 of Division 6 of the Water Code, to read:~~

7  
8             ~~Article 9.4. Additional Facilities and Programs~~  
9

10     ~~11259. Notwithstanding any other law, construction of a new~~  
11 ~~Delta conveyance facility shall not commence until all of the~~  
12 ~~following conditions are met:~~

13     ~~(a) The department and the Department of Fish and Game adopt~~  
14 ~~a final agreement that specifies the stages of construction of the~~  
15 ~~new Delta conveyance facility. For purposes of that agreement,~~  
16 ~~the first stage of construction shall include new fish screens, which~~  
17 ~~shall be tested for a period of not less than two years prior to the~~  
18 ~~commencement of the next phase of construction in order to~~  
19 ~~establish the adequacy of the fish screens and operational criteria.~~  
20 ~~The agreement shall provide that the final phase of construction~~  
21 ~~shall not commence until the department and Department of Fish~~  
22 ~~and Game determine that the fish screens and operational criteria~~  
23 ~~will adequately protect fish populations.~~

24     ~~(b) Plans and agreements to protect the beneficial uses of the~~  
25 ~~Delta are in place, including plans and agreements to do all of the~~  
26 ~~following:~~

27     ~~(1) Relocate the intake to the Contra Costa Canal to divert water~~  
28 ~~from state water facilities, subject to the terms of a contract~~  
29 ~~between the department and any appropriate agencies representing~~  
30 ~~the beneficiaries.~~

31     ~~(2) Complete the Los Vaqueros unit, located in eastern Contra~~  
32 ~~Costa County, approximately eight miles west of the Clifton Court~~  
33 ~~Forebay. Other offstream storage reservoirs may be located south~~  
34 ~~or west of the Delta, as determined by the director, to be served~~  
35 ~~by existing project facilities.~~

36     ~~(3) Complete south Delta water quality improvement facilities,~~  
37 ~~consisting of pumping plants, discharge canals, flow control~~  
38 ~~structures, and channelization of sloughs to provide improved~~  
39 ~~circulation, distribution, and quality of water in the southeastern~~  
40 ~~Delta and to meet the needs of the south Delta area. Those facilities~~

1 may include a turnout from the California Aqueduct to the Westley  
2 Wasteway of the federal Delta-Mendota Canal or other facilities  
3 to deliver water to the San Joaquin river. In lieu of that turnout,  
4 the director may enter an agreement with the Bureau of  
5 Reclamation to exchange an equivalent amount of water between  
6 the Delta-Mendota Canal and the California Aqueduct. Portions  
7 of any new facilities described in this paragraph that are not  
8 integrally connected with the new Delta conveyance facility shall  
9 be constructed only if a contract between an appropriate agency  
10 representing the beneficiaries and the department is executed.

11 (4) As mitigation for the past, present, and future adverse  
12 impacts of reduced Delta outflows on the wildlife resources of the  
13 Suisun Marsh, construct, maintain, or operate, or contract with the  
14 Suisun Resources Conservation District for the construction,  
15 maintenance, or operation of, the Suisun Marsh overall protection  
16 facilities in accordance with a plan developed by the department  
17 in cooperation with the Suisun Resources Conservation District  
18 and the Department of Fish and Game. These facilities shall be  
19 completed no later than the first stage of construction of the new  
20 Delta conveyance facility, as described in subdivision (a):

21 (5) (A) The construction of facilities for utilizing groundwater  
22 storage space, as determined by the director to be feasible, for  
23 purposes of providing yield for the State Water Resources  
24 Development System based upon estimates by the department that  
25 groundwater storage can yield 400,000 acre-feet annually, in  
26 conjunction with existing and future surface water supplies, by the  
27 recharge and extraction of ground water and including the  
28 capitalized cost of delivering water for filling or refilling ground  
29 water storage space, in one or more of the following locations  
30 within the service area of the State Water Resources Development  
31 System:

32 (i) The south San Francisco Bay area in the Counties of Santa  
33 Clara and Alameda, served by the South Bay Aqueduct.

34 (ii) The San Joaquin Valley, served by the California Aqueduct.

35 (iii) Southern California, served by the California Aqueduct,  
36 including enlargement of the Devil Canyon Power Plant and the  
37 Mojave Division (East Branch) from the Cottonwood Power Plant  
38 to Silverwood Lake.

39 (B) A facility described in this paragraph shall not be constructed  
40 or operated within the boundaries of an agency that has contracted



1 for water from the State Water Resources Development System  
2 without a contract with that agency.

3 (6) Except as provided in paragraph (7), the construction of the  
4 Glenn Reservoir-River Diversion Unit on the west side of the  
5 Sacramento Valley in the vicinity of Stony Creek and Thomes  
6 Creek watersheds.

7 (7) If the Glenn Reservoir-River Diversion Unit described in  
8 paragraph (6) is not feasible, as determined by the director, the  
9 construction of the Colusa Reservoir-River Diversion Unit on the  
10 west side of the Sacramento Valley in the western portion of the  
11 Counties of Glenn and Colusa. The Sites Reservoir portion of the  
12 unit may be developed at any time hereafter by the federal  
13 government as a facility of the federal Central Valley Project to  
14 serve the Tehama-Colusa Canal and any extension thereof into  
15 Yolo and Solano Counties.

16 (8) Implementation of wastewater reclamation programs to  
17 provide yield for the State Water Resources Development System.  
18 Facilities for these programs shall be economically competitive  
19 with alternative new water supply sources, and shall not be  
20 constructed or operated within the boundaries of any agency that  
21 has contracted for water from the State Water Resources  
22 Development System, unless the department does so pursuant to  
23 a contract with that agency.

24 (9) Implementation of water conservation programs within the  
25 boundaries of agencies that have contracted for water from the  
26 State Water Resources Development System. However, the  
27 implementation of these programs is contingent upon contracts  
28 between the agencies and the department.

29 (10) (A) Construction of the Mid-Valley Canal Unit for the  
30 alleviation of groundwater overdraft and provision of water supply  
31 for state and federal water fowl management areas within the canal  
32 service area. Only water developed by facilities other than those  
33 of the project may be delivered through the canal unit, and that  
34 water shall be transported through the new Delta conveyance  
35 facility. The full cost of the canal unit incurred by the state shall  
36 be allocated to agricultural, municipal, and industrial contractors  
37 for the delivered water, and shall be repaid by those contractors.

38 (B) The Secretary of the Natural Resources Agency is authorized  
39 to indicate in writing the state's intent to agree to administer any  
40 federal multiple-purpose water project land and water areas of the

1 ~~Mid-Valley Canal Unit for recreation and fish and wildlife~~  
2 ~~enhancement, as provided in Section 4601-13 of Title 16 of the~~  
3 ~~United States Code, if the water project is constructed by the United~~  
4 ~~States.~~

5 ~~(11) Construction of the Western Delta Overland Water~~  
6 ~~Facilities, to supply water to agricultural areas on Sherman Island,~~  
7 ~~Jersey Island, Hotchkiss Tract, and adjacent areas.~~

8 ~~(12) (A) Construction of facilities to provide for the~~  
9 ~~transportation of water to termini to serve the Counties of San~~  
10 ~~Joaquin and San Mateo, and the City and County of San Francisco.~~

11 ~~(B) Construction of facilities to provide for the transportation~~  
12 ~~of a supplemental water supply to areas in Alameda and Contra~~  
13 ~~Costa Counties not served through the Contra Costa Canal or the~~  
14 ~~South Bay Aqueduct. Water delivered through the facilities shall~~  
15 ~~be water developed by facilities of the federal Central Valley~~  
16 ~~Project.~~

17 ~~11259.3. (a) Construction of facilities described in subdivision~~  
18 ~~(a) of Section 11259 or paragraph (10) of subdivision (b) of Section~~  
19 ~~11259 may commence only after the department has entered into~~  
20 ~~a permanent agreement with the Department of Fish and Game~~  
21 ~~for the protection and enhancement of fish and wildlife that~~  
22 ~~provides for both of the following:~~

23 ~~(1) The restoration and maintenance of adult populations of fish~~  
24 ~~and wildlife at historical levels in the Delta and the Suisun Marsh~~  
25 ~~and the San Francisco Bay system westerly of the Delta.~~  
26 ~~Maintenance at historical levels shall consider natural fluctuations~~  
27 ~~in annual water supply and populations of fish and wildlife. The~~  
28 ~~agreement shall include those limitations on exports and diversions~~  
29 ~~to storage that are necessary to restoring and maintaining historical~~  
30 ~~levels of fish and wildlife. To the extent practicable, fresh water~~  
31 ~~needed to restore and maintain fish and wildlife in the San~~  
32 ~~Francisco Bay System westerly of the Delta shall be provided from~~  
33 ~~unregulated flows.~~

34 ~~(2) The realization of the potential of the project for increasing~~  
35 ~~resources above the levels described in paragraph (1) consistent~~  
36 ~~with the contracts for water delivery and with other purposes of~~  
37 ~~the projects.~~

38 ~~(b) The department shall immediately proceed with activities~~  
39 ~~prerequisite to the construction of the facilities described in~~

1 subdivision (a) of Section 11259, and shall complete the design  
2 and commence construction as soon as possible.

3 11259.5. (a) The construction of any new facilities described  
4 in paragraphs (3), (6), (7), (8), and (10) of subdivision (b) of  
5 Section 11259 is conditional upon the completion of engineering,  
6 economic, environmental, and financial feasibility reports found  
7 favorable by the Director of Water Resources.

8 (b) Each financial feasibility report shall contain all of the  
9 following:

10 (1) An initial allocation of project costs to project purposes.  
11 (2) The proposed method of financing.  
12 (3) An estimate of the method of repayment.  
13 (4) A designation of the water and power contractors that are  
14 proposed to repay the allocated reimbursable water development  
15 costs, including interest, if any, on upstream storage, conveyance,  
16 operations, maintenance, and replacement.

17 (5) An estimate of the impact upon retail water prices in the  
18 various service areas of the project.

19 11259.7. (a) The environmental impact report for the Delta  
20 conveyance facility shall include a discussion of the sources of  
21 mineral, nutrient, and biological components of the Sacramento  
22 River, and shall evaluate the possible impacts to those components  
23 resulting from the operation of the Delta conveyance facility.

24 (b) If the department determines that there will be significant  
25 adverse mineral, nutrient, or biological effects caused by the  
26 operation of the Delta conveyance facility, the department shall  
27 do all of the following:

28 (1) Evaluate mitigation measures in the environmental impact  
29 report.

30 (2) Propose cost allocation principles for mitigation.

31 (3) Prepare trial cost allocation.

32 (c) To the extent practicable, the department shall mitigate the  
33 adverse impacts on mineral, nutrient, and biological components  
34 caused by the operation of the Delta conveyance facility.

35 SEC. 6. Section 11456 is added to the Water Code, to read:

36 11456. (a) The department shall enter into permanent and  
37 enforceable contracts with the Delta agencies specified in  
38 subdivision (c) for purposes of recognizing the right of water users  
39 to make use of the waters of the Delta and establishing criteria for  
40 the minimum quality of water that shall prevail within the Delta

1 before water may be exported from the Delta. The quality shall be  
2 adequate to permit the preservation of Delta agricultural, domestic,  
3 and environmental uses, as provided in Part 4.5 (commencing with  
4 Section 12200).

5 (b) ~~The contracts shall provide for reasonable payment to be~~  
6 ~~made for any benefits that may be received through the water~~  
7 ~~supply or quality provided in the contracts in excess of that which~~  
8 ~~would have been available in absence of the operations of the State~~  
9 ~~Water Resources Development System and of the federal Central~~  
10 ~~Valley Project, and offset by any detriments caused by those~~  
11 ~~operations. If contracts have not been executed by January 1, 2013,~~  
12 ~~differences between the state and the Delta agencies specified in~~  
13 ~~subdivision (c) shall be resolved by arbitration upon the written~~  
14 ~~request of either party to the proposed contract identifying the~~  
15 ~~issues upon which arbitration shall be held. Arbitration shall be~~  
16 ~~conducted in accordance with Title 9 (commencing with Section~~  
17 ~~1280) of Part 3 of the Code of Civil Procedure.~~

18 (c) ~~The agencies with which the contracts shall be entered~~  
19 ~~pursuant to subdivision (a) are the following:~~

- 20 (1) ~~North Delta Water Agency.~~
- 21 (2) ~~Central Delta Water Agency.~~
- 22 (3) ~~South Delta Water Agency.~~
- 23 (4) ~~East Contra Costa Irrigation District.~~
- 24 (5) ~~Byron-Bethany Irrigation District.~~
- 25 (6) ~~Contra Costa County Water Agency.~~
- 26 (7) ~~Contra Costa County Water District.~~
- 27 (8) ~~Suisun Resource Conservation District.~~

28 (d) ~~When binding determinations have been made involving~~  
29 ~~two-thirds of the total acreage within the Delta and Suisun Marsh~~  
30 ~~located within the agencies specified in subdivision (c), the~~  
31 ~~department or the remaining agencies may withdraw from the~~  
32 ~~arbitration proceedings. This section shall not supersede any~~  
33 ~~requirement for elections to approve the contracts, reached by~~  
34 ~~negotiation or arbitration, as may be required by the act authorizing~~  
35 ~~creation of the agency.~~

36 SEC. 7. ~~Section 11457 is added to the Water Code, to read:~~

37 11457. ~~The costs of providing any benefits received by~~  
38 ~~agricultural, municipal, and industrial water users in the Delta as~~  
39 ~~a result of project operations, in excess of any detriments caused~~  
40 ~~by project operations, shall be repayable to the department by the~~

1 beneficiaries, to the extent properly allocable. The costs of  
2 providing the benefits shall not be reimbursable by any State Water  
3 Resources Development System water service contractor who does  
4 not receive those benefits.

5 SEC. 8. Section 11458 is added to the Water Code, to read:

6 11458. (a) Except as provided in subdivision (b), the  
7 department shall not transport water for the federal Central Valley  
8 Project through project facilities, including the Delta conveyance  
9 facility, unless both of the following events occur:

10 (1) The Congress of the United States enacts legislation or the  
11 Secretary of the Interior enters into a permanent contract with the  
12 department that requires operation of the federal Central Valley  
13 Project in accordance with all of the following conditions:

14 (A) Operation in full coordination with the State Water  
15 Resources Development System and in compliance with water  
16 quality standards adopted pursuant to Section 13170 and as set  
17 forth as conditions in permits and licenses pursuant to Part 2  
18 (commencing with Section 1200) of Division 2. Actions of the  
19 board in establishing water quality standards and conditions in  
20 permits and licenses shall be a combined action meeting all of the  
21 applicable requirements of Part 2 (commencing with Section 1200)  
22 of Division 2.

23 (B) Operation in conformity with a permanent agreement  
24 between the United States and the state for the protection and  
25 enhancement of fish and wildlife, which shall provide for both of  
26 the following:

27 (i) The restoration and maintenance of adult populations of fish  
28 and wildlife at historical levels in the Delta and the Suisun Marsh  
29 and the San Francisco Bay System westerly of the Delta.  
30 Maintenance at historical levels shall consider natural fluctuations  
31 in annual water supply and populations of fish and wildlife. The  
32 agreement shall include those limitations on exports and diversions  
33 to storage that are necessary to assist in restoring and maintaining  
34 historical levels of fish and wildlife. To the extent practicable,  
35 fresh water needed to restore and maintain fish and wildlife in the  
36 San Francisco Bay System westerly of the Delta shall be provided  
37 from unregulated flows.

38 (ii) The realization of the potential of the project for increasing  
39 these resources above the levels in paragraph (i), consistent with

1 the contracts for water delivery and with other purposes of the  
2 projects.

3 (2) The federal government agrees to the transportation of water  
4 of the federal Central Valley Project through the facilities described  
5 in subdivision (a) of Section 11259.

6 (b) The department may transport water for the federal Central  
7 Valley Project through project facilities, in accordance with the  
8 following:

9 (1) Contracts between the department and the United States  
10 existing on January 1, 2013.

11 (2) The requirements of any decision of the State Water  
12 Resources Control Board.

13 (3) For the San Felipe Unit of the federal Central Valley Project,  
14 in implementation of the principles of the agreement between the  
15 department and the Santa Clara Valley Water District. If operation  
16 of the federal Central Valley Project to meet Delta water quality  
17 standards requires proportionate reduction in deliveries of water  
18 to the San Felipe Unit, those reductions will be made.

19 SEC. 9. Section 11460 of the Water Code is amended to read:

20 11460. (a) In the construction and operation by the department  
21 of any project under this part, a watershed or area in which water  
22 originates, or an area immediately adjacent thereto that can  
23 conveniently be supplied with water from that area, shall not be  
24 deprived by the department, directly or indirectly, of the prior right  
25 to all of the water reasonably required to adequately supply the  
26 beneficial needs of the watershed, area, or any of the inhabitants  
27 or property owners in that area.

28 (b) The project shall be operated in compliance with water  
29 quality standards set forth as conditions in permits or licenses  
30 pursuant to Part 2 (commencing with Section 1200) of Division 2  
31 and in water quality control plans, as provided in Section 13170  
32 or as established by contract, including rectifying failure of the  
33 United States to operate the federal Central Valley Project in  
34 accordance with those standards. Actions of the state board in  
35 establishing water quality standards and conditions in permits and  
36 licenses shall be a combined action meeting all of the applicable  
37 requirements of Part 2 (commencing with Section 1200) of  
38 Division 2.

39 (c) The department, the Attorney General, and other state  
40 agencies shall take all necessary actions, including initiating or

1 participating in judicial, administrative, and legislative proceedings;  
2 to assure that the federal Central Valley Project is operated in  
3 compliance with standards established by the state board, as  
4 specified in subparagraph (A) of paragraph (1) of subdivision (a)  
5 of Section 11458.

6 SEC. 10. Section 11915.2 is added to the Water Code, to read:

7 11915.2. The department shall make an allocation of the costs  
8 to the project to provide water for water quality, fish and wildlife,  
9 and recreation in the Delta, Suisun Marsh, or San Francisco Bay;  
10 to compensate for historic upstream depletions and diversions that  
11 have reduced the amount of water naturally available in the Delta,  
12 Suisun Marsh, and San Francisco Bay. Public agencies that have  
13 contracted for water supplies from the project shall not be  
14 responsible for these allocated costs.

15 SEC. 11. (a) The Department of Fish and Game may  
16 administer a comprehensive study to determine the interrelationship  
17 between Delta outflow, including flushing flows, fish and wildlife  
18 resources in the San Francisco Bay system westerly of the Delta,  
19 and waste discharges into the San Francisco Bay system. The State  
20 Water Resources Control Board shall be responsible for the  
21 portions of the study relating to waste discharges. The study and  
22 the work plan for it shall be reviewed by a committee composed  
23 of representatives of the San Francisco Bay Conservation and  
24 Development Commission, the State Water Resources Control  
25 Board, and the Department of Water Resources.

26 (b) The Department of Fish and Game shall report progress on  
27 the study annually to the Legislature. The report shall include  
28 recommendations for coordination with any other ongoing related  
29 study and for adjustment in funding, and the report shall include  
30 independent statements of review from each agency on the review  
31 committee.

32 (c) The primary purpose of the study described in subdivision  
33 (a) is to provide data to aid the State Water Resources Control  
34 Board in its consideration of the need to set standards to protect  
35 San Francisco Bay to assure that planning for future projects will  
36 not appreciably reduce unregulated delta outflows before the State  
37 Water Resources Control Board determines the need for water  
38 quality standards to protect the San Francisco Bay System westerly  
39 of the Delta.

1     ~~(d) The study need not be completed before the final~~  
2     ~~environmental impact report on the Delta conveyance facility, as~~  
3     ~~described in subdivision (a) of Section 11259 of the Water Code,~~  
4     ~~is adopted.~~

5     ~~(e) The study may be included in any existing study performed~~  
6     ~~by the Department of Fish and Game that meets the requirements~~  
7     ~~of subdivision (a).~~

8     ~~(f) This section shall not affect the obligation of the Department~~  
9     ~~of Water Resources under the California Environmental Quality~~  
10    ~~Act (Division 13 (commencing with Section 21000) of the Public~~  
11    ~~Resources Code).~~

12    ~~(g) (1) The requirement for submitting a report under~~  
13    ~~subdivision (b) is inoperative on December 31, 2017, pursuant to~~  
14    ~~Section 10231.5 of the Government Code.~~

15    ~~(2) A report to be submitted pursuant to subdivision (b) shall~~  
16    ~~be submitted in compliance with Section 9795 of the Government~~  
17    ~~Code.~~

18    ~~SEC. 12. The Department of Water Resources shall study the~~  
19    ~~possible interconnection between the State Water Resources~~  
20    ~~Development System and water supply systems serving the~~  
21    ~~Counties of Alameda, Contra Costa, San Joaquin, and San Mateo,~~  
22    ~~and the City and County of San Francisco.~~

23    ~~SEC. 13. The Department of Water Resources may participate~~  
24    ~~in an investigation of the need to enlarge Shasta Dam and Reservoir~~  
25    ~~or other existing federal reservoirs for joint use of the State Water~~  
26    ~~Resources Development System and the federal Central Valley~~  
27    ~~Project, if a contract is executed for this purpose between the~~  
28    ~~Secretary of the Interior and the Department of Water Resources.~~  
29    ~~The study shall be subject to Section 11259.5 of the Water Code.~~